

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ARETHA B. BROWN,

Plaintiff,

VS.

## LUXOR HOTEL & CASINO, et al.,

**Defendant.**

Case No. 2:14-cv-00991-RFB-GWF

## **FINDINGS AND RECOMMENDATION**

This matter comes before the Court on Plaintiff Aretha B. Brown's ("Plaintiff") failure to file an Amended Complaint pursuant to the Court's Minute Order (ECF No. 9) filed on February 26, 2014.

This matter commenced on June 19, 2014, with the filing of Plaintiff's Complaint and Motion/Application to Proceed *in forma pauperis* (ECF No. 1). Plaintiff's Motion to Proceed *in forma pauperis* was granted. (See ECF No. 2). The Court also dismissed the Complaint, without prejudice, for failure to state a claim upon which relief can be granted. (*Id.*). On July 25, 2016, the undersigned recommended that Plaintiff's Complaint be dismissed with prejudice for failure to file an amended complaint by June 23, 2014. The District Judge rejected the recommendation and ordered Plaintiff to file an amended complaint no later than January 24, 2015. (See ECF No. 7). Plaintiff requested an extension of that deadline, which was granted, and Plaintiff was ordered to file an amended complaint no later than May 25, 2015. (See ECF No. 9). Plaintiff was cautioned that failing to do so would result in the dismissal of this action.

Pursuant to Fed. R. Civ. P. 41(b), the Court may dismiss an action with prejudice if the Plaintiff fails to prosecute or to comply with these rules or a court order. Pursuant to the Court's

1 Minute Order (ECF No. 9), Plaintiff had until May 25, 2015 to file an amended complaint. Notice  
2 was mailed to Plaintiff on February 26, 2015. More than a year has elapsed since the order was  
3 mailed and Plaintiff has not filed an amended complaint. Accordingly,

4 **RECOMMENDATIONS**

5 **IT IS HEREBY RECOMMENDED** that Plaintiff's Complaint be **dismissed with**  
6 **prejudice.**

7 **NOTICE**

8 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be  
9 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has  
10 held that the courts of appeal may determine that an appeal has been waived due to the failure to  
11 file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit  
12 has also held that (1) failure to file objections within the specified time and (2) failure to properly  
13 address and brief the objectionable issues waives the right to appeal the District Court's order  
14 and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153,  
15 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

16 DATED this 24th day of June, 2016.

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19 GEORGE FOLEY, JR.  
20 United States Magistrate Judge  
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